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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,014	12/04/2001	Chen Xing Su	10209.276	6898

21999 7590 08/30/2005

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EXAMINER

OH, SIMON J

ART UNIT	PAPER NUMBER
1618	

1618

DATE MAILED: 08/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Papers Received

Receipt is acknowledged of the applicant's response, received on 27 June 2005.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The rejection of Claims 1-10, 12, and 13 under 35 U.S.C. 103(a) as being unpatentable over Gidlund is maintained.

Response to Arguments

The applicant's arguments, received on 27 June 2005, have been considered, but are not found to be persuasive.

The applicant argues that the Gidlund reference teaches the administration of an extract, which the applicant defines as certain ingredients that are isolated from the juice of a fruit. However, the prior art does not specify a particular component that is allegedly isolated from the juice of *Morinda citrifolia* fruit. The examiner notes that the juice, as recited in the instant claims, is processed by techniques of pasteurization and filtration. In the view of the examiner, there is no patentable difference between the juice recited by the applicant as processed, and the juice as disclosed in the prior art, "treated in the way conventional to the art". Furthermore, the applicant's own disclosure lacks any specific definition of juice. How much or how little

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processing can be applied to a liquid taken from a fruit and still be called "juice" has not been clearly defined by the applicant. Even so, the applicant has not shown how the presence of certain components found in juice that would not be allegedly found in a fruit extract imparts the selective COX-2 inhibition as instantly claimed by the applicant.

The examiner considers the property of selective cyclooxygenase-2 inhibition to be implicit and inherent to the disclosure of the prior art. As the art has already shown guidance that the invention of the Gidlund reference is useful for treating various conditions of pain, such as menstrual cramps, arthritis, sprains, and injuries, the examiner considers such a disclosure to be further guidance and evidence towards that rationale. The applicant is reminded that a composition known in the prior art does not become patentable upon the discovery of a new property. See MPEP § 2112. The burden therefore shifts onto the applicant to show the unobvious difference between the instantly claimed invention and the prior art that would render patentability unto the instantly claimed invention. All claims remain rejected.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Correspondence

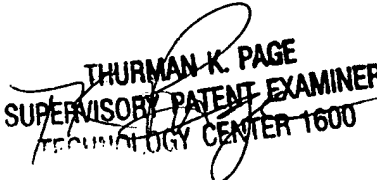
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Simon J. Oh whose telephone number is (571) 272-0599. The examiner can normally be reached on M-F 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Simon J. Oh
Examiner
Art Unit 1618

sj0


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